IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

THURSDAY, THE 6TH DECEMBER 2007 / 15TH AGRAHAYANA 1929

CONTEMPT APPEAL (C).No. 7 of 2007(S)

(AGAINST THE JUDGEMENT IN COC.1471/2007 Dated 03/12/2007)

APPELLANT/4TH RESPONDENT

CHANDRASEKHARAN,
SECRETARY,
KOZHIKODE CHETHU THOZHILALI UNION,
AYYAPPAN SMARAKA MANDIRAM,
NEAR SANGAM THEATRE,
ANNIE HALL ROAD,
KOZHIKODE.

BY ADV. SRI.C.P.MOHAMMED NIAS

RESPONDENTS/PETITIONER & RESPONDENT NOS. 1 TO 3:
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1. K.RAZIYABI,
W/O. MOIDEEN KOYA,
AGED 42 YEARS,
RESIDING AT 19/640,
NAIBERS,
MANAMKULAM PARAMBA,
CHALAPPURAM, KOZHIKODE.

2. MONY,
(FATHER'S NAME AND AGE NOT KNOWN TO THE APPELLANT)
EXECUTIVE ENGINEER,
KERALA STATE ELECTRICITY BOARD,
KALLAI ELECTRICAL SECTION, KALLAI,
KOZHIKODE.

3. T.V.JAMES,
(FATHER'S NAME AND AGE NOT KNOWN TO THE APPELANT)
ASSISTANT EXECUTIVE ENGINEER,
KERALA STATE ELECTRICITY BOARD,
KALLAI ELECTRICAL SECTION,
KALLAI, KOZHIKODE.

4. P.A.VIJAYAN,
(FATHER'S NAME AND AGE NOT KNOWN TO THE APPELLANT)
ASSISTANT ENGINEER,
KERALA STATE ELECTRICITY BOARD,
KALLAI ELECTRICAL SECTION, KALLAI,
KOZHIKODE.

R1 BY ADV. SHRI V.V. SURENDRAN.
R2 TO R4 BY SHRI C.K. KARUNAKARAN, SC, K.S.E.B.

THIS CONTEMPT APPEAL (CIVIL) HAVING COME UP FOR ADMISSION ON 06/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L. DATTU, C.J. & K.T. SANKARAN, J.

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CONTEMPT APPEAL No. 7 OF 2007

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Dated this the 6th December, 2007

J U D G M E N T

H.L. Dattu, C.J.:

One K. Raziyabi, wife of Moideen Koya, resident of Chalappuram , Kozhikode was before this court in W.P.(C) No. 20295 of 2007 inter alia requesting this Court to direct the respondents in the Writ Petition, viz., Kerala State Electricity Board and its officials to give electric connection to the petitioner's commercial building.

2. In the Writ Petition, it was brought to the notice of the learned single Judge by the learned counsel appearing for the Board that the 4th respondent -Union has raised some objections to give electric connection to the petitioner.

3. The court, after noticing this, had disposed of the Writ Petition by its order dated 9th July 2007 and in that, had issued a positive direction to the Board and its officials to give electric connection to the petitioner at the earliest and in any event, within a period of three weeks from the date of production of a copy of the aforesaid order. The court had also permitted the Board to make reference, if it so desires, to the District Magistrate. After disposal of the Writ Petition, the Board had referred the matter to the District Magistrate for adjudication of the lis between the petitioner and the 4th respondent-Union.

4. During the pendency of the proceedings before the District Magistrate, the petitioner in the Writ Petition had filed Contempt Case (C)No. 1471 of 2007.

5. In the Contempt Case, the Superintendent of Police, Kozhikode had been impleaded as additional respondent No.5.

6. It was the stand of the Board before the learned single Judge in the Contempt Case that the 4th respondent is obstructing the Board in complying with

the orders and directions issued by this court while disposing of Writ Petition No. 20295 of 2007. The learned single Judge, taking into consideration the submission of the Board, has directed the police authorities to give police protection to the Board and its officials to comply with the orders and directions issued by this court.

7. Aggrieved by the orders passed by the learned single Judge in Contempt Case (C)No. 1471 of 2007, the appellant/4th respondent -Union is before us in this appeal.

8. It is brought to our notice by the learned counsel appearing for the appellant/4th respondent-Union that during the pendency of the reference made by the Board before the District Magistrate , the learned single Judge ought not to have directed the Board to take the assistance of the Superintendent of Police to comply with the orders and directions issued by the learned single Judge earlier. It is further submitted that in a Contempt Case, the court is not expected to issue further directions in the matter. Therefore, it is submitted, the orders passed by the learned single Judge is contrary to the observations made by the Apex Court.

9. In the instant case, as we have already noticed, the learned single Judge , while disposing of Writ Petition No. 20295 of 2007, by judgment dated 9th July, 2007 had specifically directed the Board and its officials to give electric connection to the petitioner at the earliest. Since the respondent-Board did not react to the orders and directions issued by this court, the petitioner was left with no other alternate remedy but only to approach this court with a Contempt Case. The Board, in order to purge the Contempt proceedings, had requested the learned single Judge to grant them police protection to comply with the orders and directions issued by this court in the Writ Petition. The learned single Judge, in

order to assist the Board to comply with the orders and directions issued by this court, has directed the Superintendent of Police, Kozhikode to give sufficient police protection to the Board to comply with the orders and directions issued by this court earlier in Writ Petition No.20295 of 2007. In our opinion, the learned single Judge has not issued any further direction in the Contempt Case. He has only directed the Superintendent of Police to assist the Board in complying with the orders and directions issued by this court earlier. Therefore, it cannot be said that this court has issued further directions while disposing of the Contempt Case. The learned single Judge has also made it clear , while disposing of the Contempt Case, that the electric connection that will be given to the petitioner will be subject to the decision of the Additional District Magistrate . If for any reason, the Additional District Magistrate takes a decision that electric connection cannot be given to the petitioner, he will be at liberty to direct the Board to stop the power supply to the petitioner .

In view of the above, in our opinion, the appellant in this Contempt Appeal has not made out a case, which would call for our interference. Accordingly, the Contempt Appeal requires to be rejected and it is rejected. Ordered accordingly.

H.L. DATTU,
CHIEF JUSTICE.

K.T. SANKARAN,
JUDGE.

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